

REMARKS

Claims 1-77 are pending in the Application.

Claims 23-56 and 67-77 have been allowed.

Claims 1-5, 21 and 57-66 stand rejected.

Applicants respectfully assert that the amendment to claim 59, and incorporated by reference in any claims depending therefrom, is not a narrowing amendment made for a reason related to statutory requirements for a patent that will give rise to prosecution history estoppel. Instead, this is merely an amendment to correct a typographical mistake in the originally filed claims.

I. REJECTIONS UNDER 35 U.S.C. § 112§

Claims 59-64 and 66 stand rejected under 35 U.S.C. § 112, second paragraph. Applicants have amended claim 59 to correct the typographical mistake creating this § 112 rejection.

II. REJECTIONS UNDER 35 U.S.C. § 102

Claims 1-3, 5 and 21 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Chen et al.* (U.S. Patent No. 5,751,791). On page 2 of the Office Action, the Examiner asserted that claim 4 was also rejected under § 102 as being anticipated by *Chen*. However, Applicants believe this to be a typographical mistake by the Examiner since claim 4 is rejected under 35 U.S.C. § 103 as indicated below.

Applicants respectfully traverse the § 102 rejections. As the Examiner is well aware, for a claim to be anticipated under § 102 each and every element of the claim must be found within the cited prior art reference. In rejecting claim 1, the Examiner has compared the claim language to the system shown in Fig. 1 of *Chen*. Claim 1 recites that the telephony device includes circuitry for throttling data sent from the first network device. The Examiner asserts that this telephony device is

represented by telephone 80 in Fig. 1 of *Chen*. The Examiner then further asserts that “the telephony device used to dial up the connection controls the data rate at 56 kbps over the link.” While it is true that *Chen* teaches that telephone 80 can be used “to facilitate dialing when the processing unit 72 is incapable of doing so directly,” *Chen* does not teach that telephone 80 includes circuitry for throttling data sent from the first network device. *Chen* does not teach that telephone 80 in any way controls the data rate of data being sent between computer system 70 and LEC 102. *Chen* does not in any way teach that telephone 80 includes any type of data modem, or other similar circuitry, capable of controlling the rate of data being sent through telephone 80. All that *Chen* teaches is that telephone 80 can be used to permit a user to manually dial a telephone connection so that computer system 70 can then be connected to a device dialed by those telephone digits. Telephone 80 merely passes the data through it towards LEC 102. Moreover, *Chen* teaches that computer system 70 includes the Vistium video system having a board set that allows the PC to perform video and ISDN communications. Thus, it is the Vistium video system within computer system 70 that has an ability to control the data rate of data being sent to and from computer system 70. Therefore, telephone 80 does not include circuitry for throttling data sent from computer system 70.

Claim 21 recites that the data sent from the first network device is sufficiently throttled so that the telephony device can communicate real-time multimedia signals to and from the multimedia server. The Examiner asserts that claim 21 is rejected because in *Chen*, communication is real-time and a telephony device maintains the data rate at 56 kbps. First of all, as asserted above, the telephone 80, which the Examiner equates to the claimed telephony device, does not do any type of maintaining or controlling of the data rate. Secondly, the Examiner has not correctly interpreted claim 21. Claim 21 recites that the telephony device can communicate real-time multimedia signals to and from the multimedia server. The multimedia server is interpreted by the Examiner to be server 92 in Fig. 1 of *Chen*. There is absolutely no teaching or suggestion with *Chen* that telephone 80 communicates multimedia signals to and from server 92. Under the Examiner’s rejection of claim 21, the Examiner is interpreting claim 21 to recite that computer system 70 is communicating real-time multimedia signals to and from server 92. That is not what is being recited

in claim 21. For *Chen* to anticipate claim 21, *Chen* would have to teach that telephone 80 would throttle the data being sent from computer system 70 in such a manner so that telephone 80 could communicate real-time multimedia signals between telephone 80 and server 92. *Chen* does not teach this.

Claims 57-58 and 65 stand rejected under 35 U.S.C. § 102(e) as being anticipated by *Edelson et al.* (U.S. Patent No. 6,504,926). In response, Applicants respectfully traverse this rejection. Claim 57 recites an input data port for receiving data, wherein the data is addressed for transmission to a location other than the IP telephony device that includes the input data port. The Examiner has equated this input data port as microphone 23 shown in Fig. 2 of *Edelson*. Applicants respectfully traverse this assertion by the Examiner. Again, limitations are not being addressed properly by the Examiner. Claim 57 specifically recites that the data received by the input data port is addressed for transmission to a location. Audio signals received by microphone 23 cannot in any way be "addressed" for transmission to a location. Moreover, *Edelson* does not teach this. A person cannot "address" his voice signals so that they are transmitted to the location. The Examiner's interpretation of claim 57 is unreasonably broad since the Examiner has not properly interpreted the claim language to include the fact that the data being received by the input data port is addressed for transmission to a location.

III. REJECTIONS UNDER 35 U.S.C. § 103

Claims 4 and 6 stand rejected under 35 U.S.C. § 103 as being unpatentable over *Chen* in view of *Hung et al.* (U.S. Patent No. 6,760,429). In response, Applicants respectfully traverse this rejection. Since *Chen* does not teach all of the limitations of claim 1, claims 4 and 6 are also patentable over *Chen* and *Hung*.

IV. ALLOWABLE SUBJECT MATTER

Applicants acknowledge the allowance of claims 23-56 and 67-77.

V. CONCLUSION

As a result of the foregoing, it is asserted by Applicants that the remaining Claims in the Application are in condition for allowance, and respectfully request an early allowance of such Claims.

Applicants respectfully request that the Examiner call Applicants' attorney at the below listed number if the Examiner believes that such a discussion would be helpful in resolving any remaining problems.

Respectfully submitted,

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